Office - Supreme Court, U.S.
FILED
NOV 22 1982
ALEXANDER L. STEVAS,
CLERK

IN THE
Supreme Court of the United States
OCTOBER TERM, 1982

No. 81-2147
THE STATE OF ARIZONA, ET AL.,
Petitioners

v.

SAN CARLOS APACHE TRIBE OF ARIZONA, ET AL.,
Respondent,

No. 81-2188
THE STATE OF MONTANA, ET AL.,
Petitioners,

v.

NORTHERN CHEYENNE TRIBE OF THE NORTHERN CHEYENNE INDIAN RESERVATION, ET AL.,
Respondent

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF OF AMICUS CURIAE IN SUPPORT OF PETITIONERS

J. D. MacFARLANE
Attorney General
CHARLES G. HOWE
Deputy Attorney General
JOEL W. CANTRICK
Solicitor General
DAVID LADD
Assistant Attorney General
Natural Resources Section

WILLIAM A. PADDOCK
Assistant Attorney General
Natural Resources Section
Attorneys for Petitioners
1525 Sherman Street, 3d Floor
Denver, Colorado 80203
Telephone: 866-3611

INDEX

Page

INTEREST OF AMICUS 2

SUMMARY OF ARGUMENT 5

ARGUMENT

I. LIMITING TO FEDERAL COURTS THE ADJUDICATION OF WATER RIGHTS RESERVED BY THE UNITED STATES FOR INDIAN TRIBES WOULD PREVENT THE UNIFIED PROCEEDINGS FOR THE ADJUDICATION AND ADMINISTRATION OF ALL WATER RIGHTS INTENDED BY MCCARRAN AMENDMENT 5

II. CONFLICTS OF INTEREST BETWEEN THE UNITED STATES AND INDIAN TRIBES DO NOT LIMIT THE WAIVER OF SOVEREIGN IMMUNITY GRANTED BY THE MCCARRAN AMENDMENT FOR ADJUDICATION OF WATER RIGHTS RESERVED BY THE UNITED STATES ON BEHALF OF INDIAN TRIBES 9

CONCLUSION 13

CASES

Arizona v. California, 373 U.S. 546 (1963) 12

Broad Run Inv. Co. v. Dueul and Snyder Improvement Co., 47 Colo. 573, 108 P. 755 (1910) 8

Colorado River Water Conservation District v. United States (Akin), 424 U.S. 800 (1976) 2, 6, 7, 11, 12, 14

Dupassevr v. Rochereau, 880 U.S. 130 (1875) 9

Gardner v. State, 614 P.2d 357 (Colo. 1980) 8

In re Green River Drainage, 147 S. Supp. 127 (D. Utah 1956) 8

Jacob v. Roberts, 223 U.S. 261 (1912) 9

Jicarilla Apache Tribe v. United States, 601 F.2d 1116 (10th Cir. 1979), *cert. denied*, 444 U.S. 995 (1979)..... 12

Northern Cheyenne Tribe v. Adsit, 668 F.2d 1080 (1982)..... 10

Santa Clara Pueblo v. Martinez, 436 U.S. 49, 58 (1978) 11

State of New Mexico v. Aamodt, 537 F.2d 1102 (10th Cir. 1976), *cert. denied*, 429 U.S. 1121 (1971)..... 13

United States v. District Court for Eagle County, 401 U.S. 520 (1971)..... 2, 11, 12, 14

United States v. District Court for Water Division No. 5, 401 U.S. 527 (1971)..... 2

United States v. U.S. Fidelity and Guarantee Co., 309 U.S. 506 (1940)..... 11

United States v. Walker River Irrigation District, 104 F.2d 334 (1939)..... 12

STATUTES

43 U.S.C. Sec. 666 Stat. 560 ..... 3, 4

C.R.S. 1973,
37-92-101 et seq. 2, 8
37-92-302 8

OTHER AUTHORITY

Clark, Waters and Water Rights, Vol. VI,
Ch. 29 (1972) 8

Hearings on S. 18 (McCarran Amendment) before a subcommittee of the Senate Committee on the Judiciary, 82d Cong. 1st Sess (1951) ... 11, 12

S. Rep. No. 755, 82d Cong., 1st Sess., (1951) 7

IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

No. 81-2147

THE STATE OF ARIZONA, ET AL.,
Petitioners

v.

SAN CARLOS APACHE TRIBE OF ARIZONA, ET AL.,
Respondent,

No. 81-2188

THE STATE OF MONTANA, ET AL.,
Petitioners,

v.

NORTHERN CHEYENNE TRIBE OF THE NORTHERN CHEYENNE INDIAN RESERVATION, ET AL.,
Respondent

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF OF AMICUS CURIAE IN SUPPORT OF PETITIONERS

INTEREST OF AMICUS

The adjudication and administration of the arid West's most precious resource, water, is of paramount importance. Colorado has enacted a comprehensive statutory system to allow general adjudications and administration of water rights C.R.S. 1973, 37-92-101 *et seq.* These procedures operate effectively only when all claims to water are considered. Because much of the land in Colorado is owned by the federal government, including Indian reservations, any meaningful adjudication and administration of water rights in Colorado must include water rights claimed for those lands by the federal government.

Colorado's citizens have been to this Court on three previous occasions to convince the United States that the Colorado state courts do have jurisdiction to adjudicate all water rights owned by the United States, including those held for the benefit of the Indians. *United States v. District Court for Eagle County*, 401 U.S. 520 (1971); *United States v. District Court for Water Division No. 5*, 401 U.S. 527 (1971); *Colorado River Water Conservation District v. United States (Akin)*, 424 U.S. 800 (1976). On each occasion this Court held that the Colorado state courts do have jurisdiction under the McCarran Amendment to adjudicate all the water rights of the United States, including those held for the benefit of Indian tribes.

The United States is now back before this Court attempting again to defeat the jurisdiction so clearly granted by the McCarran Amendment as interpreted by the decisions of this Court. In those states where the United States has not been joined in a general adjudication the United States seeks to split off the determination of rights held for the benefit of the Indian tribes for adjudication in federal court. The tribes also seek to defeat state court jurisdiction under the McCarran Amendment based on disclaimer clauses in

state enabling acts and constitutions, and by declaring conflicts of interest with their trustee. The tribes argue that when such a conflict exists, the tribe is the only entity which can represent the Indian's interests. They further argue that the McCarran Amendment did not waive tribal sovereign immunity, so whenever such a conflict exists, the state courts may not acquire jurisdiction over water rights reserved by the United States for the benefit of Indian tribes. Alternatively, and equally incomprehensibly, the tribes argue that such conflicts could better be tolerated if the adjudication were in federal court.

The Colorado adjudications involving federal reserved water rights have been proceeding toward an orderly resolution of substantive issues. If the Indian tribes are now allowed to defeat the jurisdiction over them granted Colorado by *Akin* and the McCarran Amendment merely by declaring conflicts of interest with the United States, then the success of Colorado's ongoing adjudication proceedings would be threatened. Colorado believes it would be ridiculous to disrupt its ongoing adjudication process over these ill-considered delay tactics clothed as jurisdictional shortcomings.

Thus, Colorado appears here to protect its system of adjudication and administration of water rights from those who wish to ignore the prior decisions of this Court and those who seek to enervate the McCarran Amendment's (43 U.S.C. sec. 666) objective of allowing unified proceedings to adjudicate and administer water rights in the West.

STATUTE INVOLVED

The McCarren Amendment, 43 U.S.C. 666,66 stat. 560 provides:

> 666. *Suits for the adjudication of water rights — Joinder of the United States as defendant; costs*

(a) Consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner of or is in the process of acquiring water rights by appropriation under State law, by purchase, by exchange, or otherwise, and the United States is a necessary party to such suit. The United States, when a party to any such suit, shall (1) be deemed to have waived any right to plead that the State laws are inapplicable or that the United States is not amenable thereto by reason of its sovereignty, and (2) shall be subject to the judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances: *Providing*, That no judgment for costs shall be entered against the United States in any such suit.

Service of Summons

(b) Summons or other process in any such suit shall be served upon the Attorney General or his designated representative.

Joinder in suits involving use of interstate streams by State

(c) Nothing in this section shall be construed as authorizing the joinder of the United States in any suit or controversy in the Supreme Court of the United States involving the right of States to the use of the water of any interstate stream. July 10, 1952, c. 651, Title II, Sec. 208(a)-(c), 66 Stat. 560.

SUMMARY OF ARGUMENT

The McCarran Amendment effected Congress' intent to permit comprehensive adjudication of all water rights held by the United States, including those held for the benefit of Indian tribes, in state court proceedings. The statute recognized the necessity of a single, comprehensive proceeding and the importance of avoiding piecemeal adjudication of water rights. Only through a complete general adjudication can there be a meaningful determination of water rights. The state court systems already have the procedural mechanisms in place to carry out efficient, complete and binding adjudicating of all water rights, including water rights held by the United States for the benefit of Indian tribes (hereinafter "Indian Water Rights"). Therefore, the purpose of the McCarran Amendment and wise judicial administration require that the adjudication of all water rights held by the United States be subject to state court jurisdiction.

When the United States must represent numerous entities, including Indian tribes, conflicts of interest may arise between those entities. In some instances representation of a tribe by the United States may be inadequate due to such conflicts of interest. However, the existence of such conflicts does not create an exception to the waiver of sovereign immunity over all federal reserved water rights granted by the McCarran Amendment. The solution to such conflicts of interest is for the tribes to be represented by independent counsel.

ARGUMENT

I.

LIMITING TO FEDERAL COURTS THE ADJUDICATION OF WATER RIGHTS RESERVED BY THE UNITED STATES FOR INDIAN TRIBES WOULD PREVENT THE

UNIFIED PROCEEDINGS FOR THE ADJUDICATION AND ADMINISTRATION OF ALL WATER RIGHTS INTENDED BY THE MCCARRAN AMENDMENT.

The respondent Indian tribes contend that a special exception should be carved out of the McCarran amendment for those states which have disclaimer clauses in their enabling acts and constitutions to prevent adjudication of water rights held by the United States for the benefit of Indian tribes. However, in *Colorado River Conservation District v. United States (Akin), supra,* this Court held that the McCarran Amendment encompasses all federally reserved water rights, including those held for the benefit of the Indian tribes.

In reaching its decision in *Akin* the Court looked to the language of the McCarran amendment, the underlying policy and the legislative history. In examining the legislative history this Court quoted from the Senate report on the amendment:

> In the administration of and the adjudication of water rights under State laws the State courts are vested with the jurisdiction necessary for the proper and efficient disposition thereof, and by reason of the interlocking of adjudicated rights on any stream system, any order or action affecting one right affects all such rights. Accordingly all water users on a stream, in practically every case, are interested and necessary parties to any court proceedings. It is apparent that if any water user claiming to hold such right by reason of the ownership thereof by the United States or any of its departments is permitted to claim immunity from suit in, or orders of, a state court, such claims could materially interfere with the lawful and equitable use of water for beneficial use by the other water users who are amenable to and bound by the decrees and orders of the State courts.

424 U.S. at 811, quoting S. Rep. No. 755, 82d Cong., 1st Sess., at 4-5 (1951).

After reviewing the legislative history this Court found:

> It was unmistakably the understanding of proponents and opponents of the legislation that it comprehended water rights reserved for Indians.

424 U.S. at 811.

Based on its analysis this court then held:

> We conclude that the state court had jurisdiction over Indian water rights under the Amendment . . . [B]earing in mind the ubiquitous nature of Indian water rights in the Southwest, it is clear that a construction of the Amendment excluding those rights from its coverage would enervate the Amendment's objective.

424 U.S. at 809, 811.

This Court properly interpreted the McCarran Amendment in *Akin* and exhibited a complete understanding of the purpose of the amendment and the nature of water rights adjudication and administration. This understanding continues to elude the United States and the Indian tribes. However, the clear message from this Court is that water right adjudication proceedings are to be conducted in a single forum in a comprehensive proceeding. This result does not change merely because water rights reserved for Indian tribes are involved.

The United States in its memorandum in support of certiorari argues to defeat the completeness of general adjudications which the McCarran Amendment intended. The United States concedes the disclaimer

issue (memorandum for United States 14-16) and accepts that state courts have jurisdiction to adjudicate Indian rights but seeks to fractionalize general adjudications by having Indian rights *only* adjudicated in the federal courts as long as that jurisdiction is "timely invoked" (memorandum of United States at 17). This suggestion by the United States appears to be a political compromise which fails to comprehend the nature of water rights adjudications.

The problems created by such an approach would be severe. First, a single, comprehensive adjudication is essential due to physical interrelationships between water rights and the legal need to bind all present and potential claimants. If the Indian rights were adjudicated separately in federal court, only parties to that proceeding would be bound. Since there is no federal provision for general adjudications each potential claimant would have to be identified and served. Any incompleteness in the list of parties served would create an incompleteness in the decree.

In contrast, Colorado has long recognized the need for comprehensive procedures to resolve conflicting water rights claims early and has developed general adjudication statutes which avoid these procedural defects.[1] Such general adjudications are considered to be in the nature of quiet title or *quasi-in rem* actions, where personal service on each potential claimant is not required but procedures are employed for notice by publication. *See In re Green River Drainage*, 147 F. Supp. 127 (D. Utah 1956); *Gardner v. State*, 614 P.2d 357 (Colo. 1980); *Broad Run Inv. Co. v. Dueul and Snyder Improvement Co.*, 47 Colo. 573, 108 P. 755 (1910); C.R.S. 1973, 37-92-302. Such procedures avoid the difficult prob-

---

[1] *See e.g.* C.R.S. 1973, 37-92-101 *et seq.* Colorado's first general adjudication statute was adopted in 1879. Sess Laws Colo. 1879, sec. 5-19, p. 94. *See* Clark, *Waters and Water Rights*, Vol. VI, Ch. 29 (1972).

lems of identifying and serving each potential claimant and satisfy the constitutional requirements of due process which would plague an ad hoc federal proceeding. *Jacob v. Roberts*, 223 U.S. 261 (1912); *Dupasseur v. Rochereau*, 880 U.S. 130 (1975).

Even assuming that it were possible to properly serve all potential claimants for a "Indian only" federal court adjudication another problem would arise. All users except the Indians would be forced to appear in two separate proceedings; once in the federal forum and then again in the state proceeding. Under the United State's scheme the state proceeding would adjudicate all the "non-Indian" water rights, including the other reserved rights of the United States and the appropriate water rights of private users. Such duplication would needlessly add expense and complexity to an already complex and expensive litigation and would unfairly force all water users except the Indian tribes to bear a double burden.

The central purpose of the McCarran was to avoid such piecemeal litigation and facilitate complete general adjudications. This can only be done when all claimants are in one forum. It is not contended that the McCarran Amendment does away with federal jurisdiction. However, the need for a unified proceeding which is binding on all present and potential water claimants, and the interests of wise judicial administration demand that general adjudication of all water rights be put in state courts where procedures have been developed allowing for comprehensive adjudications binding on all water users.

II.

CONFLICTS OF INTEREST BETWEEN THE UNITED STATES AND INDIAN TRIBES DO NOT LIMIT THE WAIVER OF SOVEREIGN IMMUNITY GRANTED BY THE MCCARRAN

AMENDMENT FOR ADJUDICATION OF WATER RIGHTS RESERVED BY THE UNITED STATES ON BEHALF OF INDIAN TRIBES.

In the Montana cases below, *Northern Cheyenne Tribe v. Adsit*, the Ninth Circuit found that conflicts of interest may arise when the United States must represent different federal entities, including the Indian tribes. 668 F.2d 1080, 1089 (1982). The Ninth Circuit then concluded when such conflicts exist representation of the tribe by the United States would be inadequate. 668 F.2d 1089. Based upon the existence of conflicts the Ninth Circuit found that the Indian tribes appeared to be necessary parties to the adjudication in order to protect their interest in the federally reserved water rights. 688 F.2d at 1089. However, the court concluded that there had been no waiver of the tribes' common law sovereign immunity to suit in state courts. Thus, the Ninth Circuit would not require the tribes to intervene in the state court proceedings at the expense of their common law sovereign immunity and declined to defer to state court jurisdiction. 668 F.2d at 1090.

There may be situations where conflicts arise between the various entities which the United States has a duty to represent. However, this Court should not allow such conflicts to carve out an exception to the jurisdiction granted by the McCarran Amendment. To allow such conflicts to create such an exception would foster and encourage the development of conflicts and enervate the central objective of the McCarran Amendment to provide for unified, comprehensive general adjudications. Rather, such conflicts should be dealt with by requiring the United States to provide independent counsel to guard the interests of the tribes where those interests are not coextensive with the interests of the United States.

The Ninth Circuit correctly recognized that the tribes cannot be made a party to suit unless their sovereign immunity has been waived by Congress. *United States v. U.S. Fidelity and Guarantee Co.*, 309 U.S. 506, 512-513 (1940); *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58 (1978). However, given the abundantly clear intent of Congress to include Indian water rights within the purview of the McCarran Amendment and this Court's unequivocal acknowledgement of that intent in *Eagle County, Water Division No. 5* and *Akin*, there exist only two alternatives for considering the issue: either 1) Congress determined that the United States as trustee is the owner of the Indian water rights and the proper party to be joined in a general adjudication involving Indian water rights, or 2) Congress through the McCarran Amendment did waive the sovereign immunity of the tribes in suits for general adjudication of water rights.

The legislative history of the McCarran Amendment could not show more clearly that Congress intended to include Indian water rights. The government was well aware of that fact as evidenced by testimony of Department of Interior representatives at the Senate Hearings on the Act.[2] Even then the government sought to have Indian water rights excluded, but a suggestion offered by Interior that Indian water rights be excluded was rejected by the Congress.[3]

During the hearings on the McCarran Amendment it was repeatedly pointed out that the United States is the

---

[2]Hearings on S. 18 (McCarran Amendment) before a subcommittee of the Senate Committee on the Judiciary, 82d Cong. 1st Sess (1951), testimony of Mr. William Veeder, representing the Justice Department, pp. 6-7, 14.

[3]Report of Interior Department included in S. Rept. No. 755, 82d Cong. 1st Sess (1951) at 67-68, rejected by the committee at p. 2.

owner of the Indian water rights.[4] Indian reserved water rights are federally created rights, created by the federal government when the land was reserved for the Indian tribes.[5] Waiver of the sovereign immunity of the United States permits the adjudication of those rights because the rights are deemed to be owned by the United States and held for the benefit of the tribes. 424 U.S. at 810. In *Akin* this court held:

> Though *Eagle County* and *Water Division No. 5* did not involve reserved rights on Indian reservations, *viewing the government's trusteeship of Indian rights as ownership*, the logic of those cases clearly extends to such right.

(emphasis added) 424 U.S. at 810.

The Tenth Circuit echoed the reasoning of this Court in *Jicarilla Apache Tribe v. United States*, 601 F.2d 1116 (10th Cir. 1979), *cert. denied*, 444 U.S. 995 (1979) where it held that:

> [*T*]*he United States is the proper party defendant* in *any* general water rights adjudication proceeding whether brought in federal court or state court, *relating to federally created water rights, including those reserved for use by the Indian tribes.* This does not mean that Indian tribes

---

[4]Hearings on S. 18 (McCarran Amendment) before a subcommittee of the Senate Committee on the Judiciary, 82d Cong. 1st Sess (1951), testimony of Mr. William Veeder, representing the Justice Department, pp. 6-7, 14. The Court is also directed to the reply brief of petitioners State of Colorado in the *Akin* case, which discusses the legislative history of the McCarran Amendment in more detail.

[5]The argument that the Indian tribes reserved the water is without force, for if that were true there would be no reserved water rights for those reservations created by statute or executive order rather than by treaty. *United States v. Walker River Irrigation District*, 104 F.2d 334 (1939); *Arizona v. California*, 373 U.S. 546 (1963).

> using the federally reserved waters are not granted the right of intervention in any such adjudication, to be represented by private counsel independent of any possible conflict of interest. 601 F.2d 1127 (emphasis added). *See also, State of New Mexico v. Aamodt*, 537 F.2d 1102, 1107 (10th Cir. 1976), *cert denied*, 429 U.S. 1121 (1977).

Since the United States is the proper party defendant, federally created water rights could be adjudicated without the presence of the tribes, in fact, it appears that was the intent of Congress. However the tribes need not be absent because they have the right to intervene.

Even if the water rights are deemed to be owned by the tribes rather than the United States those rights still must be adjudicated notwithstanding any assertion of a conflict of interest. The intent of the Congress to include Indian water rights within the scope of the McCarran Amendment is so clear that to the extent that the sovereign immunity of the tribes must be waived to permit adjudication of those rights, the McCarran Amendment effected that waiver.

Conflicts of interest have no effect on the jurisdiction granted by the McCarran Amendment and should not be allowed to carve out an exception to that jurisdiction. The solution to those conflicts is to have the tribes' interests represented by independent counsel in those instances where representation by the United States would be inadequate.

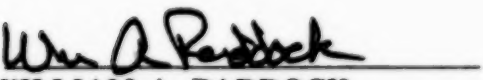
CONCLUSION

The adjudication and administration of all water rights, including Indian water rights is crucial to the effective management of water, the West's most important resource. As this Court held in *Akin*, the adjudication of all water rights including all federally created water rights, is best accomplished in a single,

comprehensive proceeding. Conflicts of interest between Indian tribes and the United States should not be allowed to defeat these purposes because such conflicts do not create an exception to the jurisdiction granted by the McCarran Amendment. As this Court has repeatedly held in *Eagle County, Water Division No. 5* and *Akin*, the McCarran Amendment did not contemplate any exceptions because exceptions would enervate the objectives of the Act itself. Accordingly, the judgments of the Ninth Circuit Court of Appeals should be reversed.

Respectfully submitted,

FOR THE ATTORNEY GENERAL



WILLIAM A. PADDOCK
DAVID LADD
Assistant Attorneys General
Natural Resources Section

Attorneys for Petitioners

1525 Sherman Street, 3d Floor
Denver, Colorado 80203
Telephone: 866-3611

CERTIFICATE OF SERVICE

I, William A. Paddock, hereby certify that I am a member of the bar of this Court and counsel of record for The State of Colorado and that on November 18, 1982, pursuant to rule 28 of the Rules of the Supreme Court of the United States, I caused to be mailed the requisite number of copies of the foregoing AMICUS BRIEF of the State of Colorado, by first class mail, postage prepaid, to the following:

The Honorable Rex E. Lee
Solicitor General

The Honorable Carol E. Dinkins
Assistant Attorney General

The Honorable Louis F. Claiborne
Deputy Solicitor General
Department of Justice
Washington, D.C. 20530

The Honorable Ted Schwinden
Governor of the State of Montana
State Capitol
Helena, Montana 59601

The Honorable Michael T. Greely
Attorney General for the State of Wyoming

Helen S. Maclay
Deirde Boggs
Special Assistant Attorneys General
P.O. Box 8957
Missoula, Montana 59807

The Honorable Bruce Babbitt
Governor of the State of Arizona
State Capitol
Phoenix, Arizona 85007

The Honorable Robert K. Corbin
Attorney General for the State of Arizona

Russel A. Kolsrud
Assistant Attorney General
1225 W. Washington
Phoenix, Arizona 85007

Cale Crowley
Crowley, Houghey, Hanson, Toole & Dietrich
P.O. Box 2529
Billings, Montana 59103

Maurice R. Colberg, Jr.
Hibbs, Sweeney, Colberg, Jensen & Koessler
P.O. Box 2175
Billings, Montana 59103

James E. Seykora
Bert W. Kronmiller
P.O. Drawer S
Helena, Montana 59304

Douglas Y. Freeman
631 N. Center
Hardin, Montana 59034

Bill Stephens
Stephens & Toles
1010 E. Jefferson
Phoenix, Arizona 85034

Jon L. Kyl
Jenning, Strouss & Salmon
111 W. Monroe
Phoenix, Arizona 85003

Alvin H. Shrago
Evans, Kitchel, & Jenckes, P.C.
363 N. 1st Avenue
Phoenix, Arizona 85003

Simon Rifkin
Paul, Weiss, Rifkin, Wharton & Garrison
345 Park Avenue
New York, New York 10154

Arlinda Locklear
1712 N. St. N.W.
Washington, D.C. 20036

Joe Sparks
Sparks & Siler
7503 1st Street
Scottsdale, Arizona 85052

Reid Peyton Chambers
Shosky, Chambers, Saches and Gindo
1050 31st St. N.W.
Washington, D.C. 20007

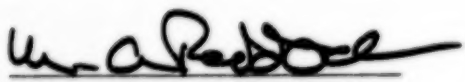
Robert S. Pelcyger
Fredericks and Pelcyger
1007 Pearl St., #204
Boulder, Colorado 80302

Jeanne E. Whiteing
Native American Rights Fund
1506 Broadway
Boulder, Colorado 80302

Richard Baenen
Wilkinson, Craigun & Barker
1735 New York Avenue N.W.
Washington, D.C. 20006

Steven L. Bunch
Montana Legal Services
801 Last Chance Gulch
Helena, Montana 59601

I certify that all parties required to be served have been served.



WILLIAM A. PADDOCK
Assistant Attorney General